

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

*Plaintiff,*

v.

Civil Action No.

MASIMO CORPORATION and  
SOUND UNITED, LLC,

**JURY TRIAL DEMANDED**

*Defendants.*

**DECLARATION OF PETER C. MAGIC IN SUPPORT OF PLAINTIFF APPLE INC.’S  
MOTION FOR EXPEDITED DISCOVERY**

I, Peter C. Magic, declare and state as follows:

1. I am an attorney and partner at the law firm Desmarais LLP, counsel of record for Plaintiff Apple Inc. (“Apple”) in the above-captioned case. I am licensed to practice law by and in good standing with the Bar of the State of California. I submit this declaration based on personal knowledge, and if called upon as a witness, could competently testify to the truth of each statement herein.

2. I submit this declaration in support of Apple’s Motion for Expedited Discovery, submitted concurrently herewith.

3. Attached as **Exhibit A** is a copy of Defendant Masimo Corporation’s (“Masimo”) Fiscal Year 2021 Form 10-K Annual Report, available at <https://investor.masimo.com/financials/sec-filings/sec-filings-details/default.aspx?FilingId=15576856> (last visited Oct. 13, 2022).

4. Attached as **Exhibit B** is a copy of Masimo's Fiscal Year 2020 Form 10-K Annual Report, available at <https://investor.masimo.com/financials/sec-filings/sec-filings-details/default.aspx?FilingId=14736544> (last visited Oct. 18, 2022).

5. Attached as **Exhibit C** is a copy of a transcript of Masimo's Q4 2021 Earnings Call, dated February 15, 2022, available at <https://www.fool.com/earnings/call-transcripts/2022/02/15/masimo-masi-q4-2021-earnings-call-transcript/> (last visited Oct. 13, 2022).

6. Attached as **Exhibit D** is a copy of a transcript of Masimo's Q3 2021 Earnings Call, dated October 26, 2021, available at <https://www.fool.com/earnings/call-transcripts/2021/10/27/masimo-masi-q3-2021-earnings-call-transcript/> (last visited Oct. 13, 2022).

7. Attached as **Exhibit E** is a copy of a transcript of Masimo's Q2 2022 Earnings Call, dated August 9, 2022, available at <https://www.fool.com/earnings/call-transcripts/2022/08/10/masimo-masi-q2-2022-earnings-call-transcript/> (last visited Oct. 18, 2022).

8. Attached as **Exhibit F** is a copy of Masimo's January 23, 2006 press release entitled *Masimo and Nellcor Announce Settlement of Patent Litigation*, excerpted from Masimo's 2006 press releases, available at <https://www.masimo.com/company/news/news-media/2006#news-76f2c84e-7857-4cff-a364-8a7af3b2221e> (last visited Oct. 13, 2022).

9. Attached as **Exhibit G** is a copy of Masimo's September 2, 2016 press release entitled *Masimo Announces Amendment to Nellcor Royalty Agreement*, excerpted from Masimo's 2016 press releases, available at <https://www.masimo.com/company/news/news-media/2016/#news-0f61fb9f-0af5-4245-b4e2-a329ad0562a6> (last visited Oct. 13, 2022).

10. Attached as **Exhibit H** is a copy of Masimo's November 7, 2016 press release entitled *Philips and Masimo Sign Multi-Year Business Partnership Agreement in Patient Monitoring and Select Therapy Solutions*, excerpted from Masimo's 2016 press releases, available at <https://www.masimo.com/company/news/news-media/2016/#news-3c555bf2-2e14-4eaa-abc0-5b723675c1e9> (last visited Oct. 13, 2022).

11. Attached as **Exhibit I** is a copy of Masimo's April 12, 2022 press release entitled *Masimo Closes Acquisition of Sound United*, excerpted from Masimo's 2022 press releases, available at <https://www.masimo.com/company/news/news-media/#4rtyy700d-7c03-9876-bt7u-8y57ktr7ull8n> (last visited Oct. 13, 2022).

12. Attached as **Exhibit J** is a copy of the Complaint filed in *Masimo Corp. v. Apple Inc.*, D.I. 1, No. 20-cv-48-JVS-JDE (C.D. Cal.).

13. Attached as **Exhibit K** is a copy of the Declaration of Brian A. Rosenthal in Support of Apple's Motion to Stay the Patent Infringement Case Pending *Inter Partes* Review Proceedings (excluding exhibits) filed in *Masimo Corp. v. Apple Inc.*, D.I. 197, No. 20-cv-48-JVS-JDE (C.D. Cal.)

14. Attached as **Exhibit L** is a copy of the Joint Stipulation Regarding Plaintiffs' [Masimo's] Motion for a Protective Order filed in *Masimo Corp. v. Apple Inc.*, D.I. 61-1, No. 20-cv-48-JVS-JDE (C.D. Cal.).

15. Attached as **Exhibit M** is a copy of the Protective Order entered in *Masimo Corp. v. Apple Inc.*, D.I. 67, No. 20-cv-48-JVS-JDE (C.D. Cal.).

16. Attached as **Exhibit N** is a copy of the Complaint (Public Version) filed in *In the Matter of Certain Light-Based Physiological Measurement Devices and Components Thereof*, Inv. No. 337-TA-1276 (Int'l Trade Comm. Jun. 29, 2021).

17. Attached as **Exhibit O** is an excerpt of public hearing testimony given on June 9, 2022 in *In the Matter of Certain Light-Based Physiological Measurement Devices and Components Thereof*, Inv. No. 337-TA-1276 (Int'l Trade Comm. Jun. 9, 2022).

18. Attached as **Exhibit P** is a copy of Kenneth Squire, *How Activist Politan Capital May Find An Opportunity to Trim Costs, Build Value at Masimo*, CNBC (Aug 20, 2022), <https://www.cnbc.com/2022/08/20/how-activist-politan-capital-may-find-an-opportunity-to-trim-costs-build-value-at-masimo.html> (last visited Oct. 13, 2022).

19. Attached as **Exhibit Q** is a copy of *Masimo Market Cap 2010-2022 | MASI*, MACROTRENDS, available at <https://www.macrotrends.net/stocks/charts/MASI/masimo/market-cap> (last visited Oct. 13, 2022).

I declare the foregoing to be true and correct under penalty of perjury.

Dated: October 20, 2022

By: /s/ Peter C. Magic  
Peter C. Magic

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